

It is evident that some amount has been paid to B. Ogle, or to S. Ridout, for him; what amount does not appear, but may possibly be proved hereafter. He is also to be charged with the value of the negroes attempted to be manumitted who were above the legal age.

B. Ogle ought not to be charged for the advances made to Mrs. Bevans, for the maintenance of herself and children before the settlement of the estate, and which have been allowed by the Orphans Court. No other allowance for that period having ever been made, it appearing to have been a reasonable sum, and they being entitled to maintenance from the death of Mrs. Ogle, after such a lapse of time and the death of the executor, it must be presumed that there was evidence of its payment and of the necessity of its being paid, although the Orphans Court had no right to allow it, it being paid in execution of the trust, not of his duty as administrator. It is contended by the complainants that it ought to have been paid out of the interest, and that the principal of the estate could not be applied to that purpose.

The will actually authorizes the "trustees to apply the said estate and the rents and profits thereof to the maintenance of Mrs. Bevans, and her children," and although it appears from the latter part of the will to have been the intention of the testatrix that the interest and profits alone should be applied to that purpose, after they should have been received, I do not see how, from the expressions of the will, we could refuse to allow a payment made for that purpose out of the principal at that early period, and probably before any interest could be made. Besides, the executor accounted for some profits of the estate nearly enough to cover that payment, and which, though certainly legal assets as to creditors, for such a purpose as they have been applied to, ought to be considered profits.

The residue of the plate bequeathed to the children of Mrs. Bevans, vests, immediately on the death of Mrs. Ogle, in the children then born. The power of the trustees to sell it for their benefit, does not extend to the death of Mrs. Bevans, but